

**Maritime Search and Rescue Bill, 2017**

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**BE IT ENACTED** by the Parliament of Pasifika as follows: –

AN ACT TO IMPLEMENT THE INTERNATIONAL CONVENTION ON MARITIME SEARCH AND RESCUE, 1979 AND TO PROVIDE FOR MARITIME SEARCH AND RESCUE COORDINATION AND SERVICES, AND FOR RELATED MATTERS

**PART 1 – PRELIMINARY**

*Short title and commencement*

1. This Act may be cited as the Maritime Search and Rescue Act 2017, and shall come into force on the date of its publication in the *Gazette*.

*Application*

2. – (1) Subject to the Constitution, this Act or any other law, and subject to any such reservations as Pasifika may make, the International Convention on Maritime Search and Rescue, 1979 shall have the force of law in Pasifika.

(2) This Act shall apply in respect of maritime search and rescue incidents but shall not prejudice the application of any law related to the management of a declared Natural Disaster.

(3) Notwithstanding subsection (2), the provision of a maritime search and rescue service or the conduct of a maritime search and rescue operation during a Natural Disaster may be guided by the MSAR Manual.

*Interpretation*

3. In this Act, unless the context otherwise requires –

“**aircraft**” means any machine that derives support in the atmosphere from the reactions of the air, other than the reactions of the air against the earth’s surface;

“**alerting posts**” means any facility intended to serve as an intermediary between a person reporting an emergency and the MRCC, and shall include but shall not be limited to –

- (a) coastal radio stations;
- (b) air traffic service units;
- (c) public safety units such as police and fire departments;
- (d) ships;
- (e) aircraft; or
- (f) other persons or facilities which may receive and relay such alerts;

“**Chairperson**” means the Chairperson of the Council;

“**Convention**” means the International Convention on Maritime Search and Rescue adopted on 27 April 1979 by the Maritime Safety Committee of the International Maritime Organization;

“**Council**” means the Maritime Search and Rescue Council established under section 5;

“**Director SAR**” means the Head of the Department responsible for Maritime Transport established under section 11;

“**MRCC**” means the Maritime Rescue Coordination Centre established under Section 13;

“**MSAR Manual**” means the Maritime Search and Rescue Manual;

“**Minister**” means the Minister responsible for the time being with Maritime Transport;

“**Ministry**” means the responsible for the time being with Maritime Transport;

“**other rescue coordination centres**” means any entity or person that is lawfully tasked to coordinate the search and rescue operations on land or as a result of aerial incidents;

“**person**” includes any institution or organisation equipped to assist in a search and rescue operation, an organ of the State, a government, and an agency of the government of a foreign country;

“**rescue**” includes the provision of the initial medical treatment of a person rescued or medical evacuation;

“**SAR**” means maritime Search and Rescue;

“**SAR Coordinator**” means the Maritime SAR Coordinator designated under section 14;

“**SRR**” means the region notified by the Minister under section 12 and in which the MRCC is responsible for coordinating search and rescue operations;

“**Secretariat**” means the entity as designated by the Minister pursuant to section 10;

“**ship**” means every description of boat or craft used in navigation whether or not it has any means of propulsion, and shall include –

- (a) a barge, lighter, or other like vessel;
- (b) a hovercraft or other thing deriving full or partial support in the atmosphere from the reaction of the air against the surface of the water over which it operates;
- (c) a submarine or other submersible.

*Objectives of the Act*

4. The main objectives of this Act are to –

- (a) implement the State’s obligations under the Convention;
- (b) establish the Council; and
- (c) provide for coordination of maritime search and rescue services.

**PART 2 – ESTABLISHMENT OF THE MARITIME SEARCH AND RESCUE COUNCIL**

*Establishment of the Council*

5. – (1) The maritime Search and Rescue Council is established.

(2) The Council shall consist of the –

- (a) Head of Department responsible for Maritime Transport, who shall be the ex officio Chairperson of the Council;
- (b) Head of Department responsible for Defence;

- (c) Head of Department responsible for Police;
- (d) Head of Department responsible for Foreign Affairs;
- (e) Head of Department responsible for Public for Works;
- (f) Head of the Maritime Administration;
- (g) Head of the Civil Aviation Authority;
- (h) Head of the Ports Authority;
- (i) Commander of the Defence Force;
- (j) Commissioner of Police; and
- (k) Director of the National Disaster Management Office.

(3) Any member of the Council who is unable to attend a meeting of the Council shall appoint his or her representative to attend that meeting and such representative shall have the same powers as conferred upon that member of the Council at that meeting.

*Functions of the Council*

6. The Council shall –

- (a) consider proposals and make decisions regarding the effective implementation of this Act and of the state's obligations arising from the Convention and any other relevant international instrument;
- (b) advise the Minister of proposals in respect of international agreements or operational arrangements with SAR organisations of other States;
- (c) oversee the development and implementation of suitable strategies and policies for maritime search and rescue preparedness, training, management and public education in maritime search and rescue operations;
- (d) approve the SAR budget and oversee the expenditure of appropriate funds;
- (e) recommend policies and procedures, and propose amendments to the MSAR Manual to the Minister; and
- (f) carry out such other functions as conferred upon it by or, as are required to give functional effect to, this Act.

*Powers of the Council*

7. The Council shall have such powers as necessary to enable it to perform its functions under this Act.

*Meetings of the Council*

8. – (1) The Council shall convene a meeting at least once a year or as required, at such time and place as the Chairperson may determine.

(2) The Secretariat shall provide written notice of a meeting to each member of the Council and such notice may be delivered by hand or sent by post, telex, facsimile, email or other written message to an address supplied to the Secretariat for that purpose.

(3) The Chairperson shall preside at any meeting of the Council, and if the Chairperson is absent at a meeting of the Council, the members present shall, for that particular meeting, appoint a member to preside as the acting Chairperson in the absence of the Chairperson.

(4) At any meeting of the Council, a majority of the total members of the Council shall constitute a quorum.

(5) Any matter raised at any meeting of the Council shall be decided by a majority of the votes of the members of the Council present, and if there is an equality of votes, the Chairperson or acting Chairperson shall have a casting vote in addition to his or her original vote.

(6) The Council may invite a person to attend a meeting of the Council for the purpose of advising the Council on any issue or matter under discussion but such person shall have no right to vote at that meeting.

*Reports*

**9.** – (1) The Council shall, at least once a year and when required by the Minister, furnish the Minister with a report which shall contain, *inter alia*, the following –

- (a) activities of the Council;
- (b) operational activities of the MRCC;
- (c) an audited statement of accounts prepared in accordance with generally accepted accounting principles as adopted by the Pasifika Institute of Accountants;
- (d) such other information as may be required by the Minister.

(2) The Minister shall ensure that the report furnished pursuant to subsection (1) is submitted to Cabinet within 30 days from the date such report is received by the Minister.

(3) The Council shall cause the Secretariat to furnish to the International Maritime Organization such reports or information as required by the Convention or any other relevant instrument related to maritime search and rescue.

*Secretariat*

**10** – (1) The Minister shall, by notice in the Gazette, designate a Secretariat which shall be responsible for all the administrative work of the Council, in carrying out its functions under this Act.

(2) Pursuant to subsection (1), the Secretariat shall, *inter alia*, -

- (a) arrange meetings of the Council, provide support and initiate follow-up action;
- (b) prepare the budget and an account of the income and expenditure related to coordination and carriage of maritime search and rescue services;
- (c) maintain data, a library and statistics in respect of maritime search and rescue;
- (d) conduct reviews or case studies on maritime search and rescue; and
- (e) perform such other functions as may be directed by the Council and Director SAR.

### **PART 3 –SAR COORDINATION AND SERVICES**

#### *Director SAR*

**11.** – (1) The Head of the Department responsible for Maritime Transport shall be the Director SAR.

(2) The Director SAR shall –

- (a) receive and implement directions from and report to the Council as required;
- (b) be the functional head of the Secretariat; and
- (c) generally have oversight over the maritime rescue and rescue coordination centre or sub-centres and services.

(3) Subject to the approval of the Minister and the Minister responsible for Communications, the Director SAR may request any provider of a telecommunications service under applicable laws, to make available telecommunications facilities and services to support search and rescue services and operation.

(4) The Director SAR shall, at least twice a year and when required by the Council, furnish the Council with a report on its activities.

(5) In the absence of the Head of the Department responsible for Maritime Transport, the acting Head of the Department responsible for Maritime Transport shall be the Director SAR.

#### *Maritime Search and Rescue Region*

**12.** – (1) The Minister shall, by notice in the Gazette as well as in relevant maritime publications, publish the maritime search and rescue region within which search and rescue services will be provided by Pasifika.

(2) The SRR in subsection (1) shall cover the area of responsibility of Pasifika as designated by the International Maritime Organization.

*Maritime Rescue Coordination Centre*

13. – (1) The maritime administration of Pasifika shall be the maritime rescue coordination centre.

(2) The MRCC shall promote efficient organization of SAR services and coordinate the conduct of SAR operations within the SRR of Pasifika.

(3) The MRCC shall be equipped with such personnel, facilities and equipment as required in order for it to perform effectively its functions within the SRR of Pasifika, including coordination with external SAR service providers.

*Functions of the MRCC*

14. – (1) The MRCC shall -

- (a) receive, acknowledge and relay notifications of distress from alerting posts;
- (b) coordinate maritime search responses within the SRR of Pasifika; and
- (c) where applicable, coordinate maritime rescue responses and delivery of survivors to a place of safety.

(2) For the avoidance of doubt, the duties of the MRCC does not extend to salvage of ships in distress.

(3) The MRCC shall perform its functions in a manner that promotes efficient, economic and effective use of all internal and external resources and shall, *inter alia*,

–

- (a) coordinate all participating search and rescue units and facilities within the area of responsibility;
- (b) conform to the search and rescue procedures as prescribed under the MSAR Manual;
- (c) establish close liaison and enter into agreements with any person in Pasifika having any search and rescue responsibilities;
- (d) propose to the Council international agreements or other arrangements of a practical nature with other States or external SAR service providers;
- (e) take immediate action to provide assistance or to initiate search and rescue operations;
- (f) report to the Director SAR that a search and rescue incident is developing or is underway; and
- (g) carry out such other functions as conferred upon it by this Act and the MSAR Manual .

(4) The MRCC shall be headed by the SAR Coordinator who shall be accountable to the Director SAR, and shall, at least once every six months and, when required by the Director SAR, furnish a report to the Director SAR on activities of the MRCC.

*Maritime Search and Rescue Manual*

**15.** – (1) The Minister shall make and amend the MSAR Manual to give effect to the provisions of this Act regarding the demarcation of roles of relevant entities in the SAR system of Pacifika and the coordination of maritime search and rescue services.

(2) The MSAR Manual shall be consistent with the State's obligations under the Convention and should follow guidelines published in the International Aeronautical and Maritime Search and Rescue Manual, as updated from time to time.

(3) The Minister may amend the MSAR Manual to reflect –

- (a) any changes made to the Convention or the International Aeronautical and Maritime Search and Rescue Manual; or
- (b) any changes proposed for the system for SAR in Pasifika.

**PART 4 – ADMINISTRATION**

*Budget*

**16.** – (1) The Minister shall ensure that an allocation is provided within the Ministry's annual budgetary estimates to finance search and rescue operations, training and related activities.

(2) Any allocation provided under subsection (1) shall be based on the Council's resolution of the finances required for search and rescue operations, training and related activities.

*Requisitioning of aircraft and ships*

**17.** – (1) Subject to subsection (2), the Minister may for purposes of any maritime search and rescue operation -

- (a) requisition any civil aircraft or vessel; or
- (b) where applicable, request the assistance of any military aircraft or vessel; or
- (c) instruct any holder of a Pasifika aircraft flight crew licence or the master of a vessel to assist in a SAR operation.

(2) In a case where the Minister contemplates requisitioning a civilian aircraft or vessel or instructing a civilian holder of a Pasifika aircraft flight crew licence or the master of a vessel, the Minister may do so only if -

- (a) human life is in immediate and grave danger; and
- (b) there are no other means available to conduct the SAR operation.

(3) The owner of a requisitioned civilian aircraft or vessel that has participated in a SAR operation shall be reimbursed of all reasonable expenses that it has incurred in its participation in the SAR operation.

*Recovery of certain expenses*

18. If any search and rescue operation is carried out in response to any occurrence caused by the unlawful act or omission of any person, the Minister may recover from that person the whole or any portion of the expenses incurred by Pasifika in connection with that operation.

*Reporting of aircraft or ships in distress*

19. Any person who knows or has reason to believe that an aircraft or ship is in distress shall report the occurrence at the nearest alerting posts.

*Cooperation with other Rescue Coordination Centres*

20. – (1) The MRCC shall exchange information freely and cooperate with other rescue coordination centres in Pasifika.

(2) With the prior approval of the Director SAR, the MRCC may hold joint exercises with other rescue coordination Centres in order to:

- (a) foster and maintain close co-operation; and
- (b) ensure that the MRCC and other rescue coordination centres in Pasifika have the several and joint capability to deal with search and rescue operations of any nature.

(3) The exercises in subsection (2) may include external SAR service providers or any other relevant external persons.

**PART 5 –OFFENCES**

*Refusal to cooperate with a request to requisition an aircraft or ship*

21. It is an offence if any person fails, without lawful or reasonable excuse, to give effect to a requisition or to comply with an instruction issued pursuant to section 17.

(2) Upon conviction, the person shall be liable to a fine not exceeding \$1,000 or to imprisonment not exceeding 12 months, or both.

*Obstruction and hoax*

22. (1) It is an offence if any person, without lawful or reasonable excuse, obstructs, hinders, hoaxes or in any way interferes with a person engaging in any activity as a member, officer or volunteer of an agency performing a role or discharging a responsibility in accordance with this Act, the MSAR Manual or any Regulations made under this Act.

(2) A police officer may arrest, without warrant, any person whom he or she has reasonable cause to believe is acting in breach of subsection (1).

(3) Upon conviction, the person shall be liable to a fine not exceeding \$1,000 or to imprisonment not exceeding 12 months, or both.

**PART 6 – MISCELLANEOUS**

*Exemption from liability*

23. A person performing a role or discharging a responsibility in accordance with this Act, the MSAR Manual or any Regulations made under this Act shall not be liable for any injury or loss sustained by any other person, unless such loss or injury is caused by or arises from a negligent act or omission of the person.

*Regulations*

24. (1) The Minister may, following consultation with the Council, make regulations regarding -

- (a) the conditions which must be complied with when an external SAR service provider or any other person from another country which is a party to the convention wishes to enter Pasifika for purposes of any operation or training related to SAR;
- (b) anything which this Act requires to be made or prescribed; or

- (c) any other matter that is necessary or expedient to be prescribed for the effective implementation of this Act or for giving full effect to the obligations of Pasifika under the Convention.

*Repeal*

25. Any law or regulation that is inconsistent with this Act shall be repealed to the extent of the inconsistency.

*Transitional provisions*

26. – (1) Subject to any modifications as may be required to make it compliant with this Act, the MRCC existing immediately prior to the commencement of this Act, its staff, facilities and equipment shall continue to exist under this Act.

(2) Any act that was carried out or obligation that was incurred pursuant to a law repealed by section 25 shall be regarded as having been done or incurred in accordance with this Act.

(3) Any deed, bond, agreement, instrument or arrangement to which the MRCC is a party subsisting immediately prior to the commencement of this Act shall continue in force and be enforceable by or against the MRCC.